

# VILAS COUNTY BOARD OF ADJUSTMENT

February 27, 2014

## Minutes of #2-2013 Hoffman Variance Public Hearing

Lac du Flambeau Town Hall

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Ms. Hanser calls Board of Adjustment Public Hearing to Order at 10:16 AM at the Lac du Flambeau Town Hall, 109 Old Abe Rd, Lac du Flambeau, WI.

**Members Present:** Joy Hanser; Marty Ketterer; Dennis Wittig, Second Alternate.

**Others Present:** Gayle Hoffman, Vilas County Deputy Zoning Administrator; David Sadenwasser, Board of Adjustment Secretary; Sue Ackland, Town of Lac du Flambeau; Jeff Hoffman, Applicant; Mary Hoffman, Applicant; Gay Ketterer; Marion.

Joy Hanser nominates Marty Ketterer as acting chairperson for the hearing. Seconded by Dennis Wittig. Mr. Ketterer accepts the nomination. There are no other nominations. **Roll call vote on nomination of Marty Ketterer as acting chairperson.**

Joy Hanser -	Aye
Dennis Wittig -	Aye

Mr. Ketterer explains the reasons for holding the hearing.

Mr. Wittig reads the public notice.

Mr. Ketterer states that no onsite was held for this application and explains the process and requirements for the hearing.

Mr. Ketterer swears in Jeff Hoffman, applicant, of Green Bay, WI.

Ms. Hanser asks Mr. Hoffman to explain his request for variance using the three step test for granting variances.

Mr. Hoffman states that he and his wife would like to build a home but the subject property does not meet the size requirements of the Vilas County Shoreland Zoning Ordinance (the Ordinance). He states that the property met the standards for the time it was created and that he was led to believe at the time of sale that a dwelling could be built on the property. He states that the proposed dwelling would be able to meet all of the setbacks required by the Ordinance. He says that the hardships and unique property features are the same.

Ms. Hanser asks if he feels there will be harm to the public interest. Mr. Hoffman responds that he does not because the proposed structure is not large in size and will fit with the character of the area. He also notes that it will be a seasonal structure.

Mr. Ketterer swears in Sue Ackland, Lac du Flambeau Zoning Administrator, of Lac du Flambeau, WI.

Ms. Ackland states that the proposed dwelling does not require a variance from the Town of Lac du Flambeau Zoning Ordinance (the Town Ordinance). She reads from Section 14.2 of the Town Ordinance. She states that she feels the hardship is created by the enactment of the Ordinance and that there will be no harm to the public interest because the property is zoned Single Family Residential (R-1) and that the proposed dwelling would be allowed in that district.

Mr. Ketterer asks again if the proposed dwelling would be permitted by the Town. Ms. Ackland responds that the subject property is recognized by the Town Ordinance as a legally buildable lot. She notes, however, that it could not be subdivided.

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Ms. Hanser asks what the Town Ordinance setback would be for the proposed tool shed. Ms. Ackland answers that it would have to be 75 feet from the Ordinary High Water Mark (OHWM) and five feet from the side lot line. She notes that these are the same requirements as in the Ordinance.

Mr. Ketterer swears in Marion Miklautsch, of Minocqua, WI.

Ms. Miklautsch states that she is a neighboring property owner who supports granting the variance. She states that she feels the applicants have met all three of the steps required in the three step test.

There are no letters or correspondence.

Mr. Ketterer swears in Gayle Hoffman, Vilas County Deputy Zoning Administrator, of Eagle River, WI.

Ms. Hoffman describes the permitting process and the reasons for permit denial. She states that the subject property is approximately 16,000 sq. ft. with 110 feet of width at the building site, which are below the minimum size requirements in the Ordinance so she had to deny the permit application. Ms. Hoffman states that the Zoning Department received a memo from Corporation Counsel in April 2008 stating that properties that do not meet the minimum requirements are not buildable without a variance. She also notes that in 2006 the United States Army Corps of Engineers (USACOE) and DNR visited the property and determined that there were no wetlands present.

A letter from the USACOE dated July 13, 2006 is entered as Exhibit A.

A facsimile of a handwritten note dated October 29, 2013 is entered as Exhibit G.

Mr. Ketterer and Ms. Hoffman discuss the size of the deck as shown in Exhibit G vs. the size of the deck listed in the permit application.

Mr. Ketterer asks when the current lot size standards were put into effect. Ms. Hoffman answers that it was May 15, 1999.

There are no representatives of the Wisconsin Department of Natural Resources (DNR) present. Mr. Sadenwasser indicates that there is no opposition from the Zoning Department.

No one wishes to speak in opposition.

Mr. Ketterer states that he feels the hardship is not the fault of the applicants. He also states the he believes that the minimum lot size requirements were included in the Ordinance for a reason and that to allow construction on such an undersized parcel would adversely affect the water quality and natural habitat of the lake. He opines that this is harmful to the public interest.

Ms. Hanser states that she is familiar with Shishebogama Lake and that there are many undeveloped areas which she feels will likely remain undeveloped. She states that the subject property is a legally established lot and that the creation of the Ordinance in 1999 made it non-conforming.

Mr. Wittig states that if this variance were to place a structure within the 75 foot setback area on a substandard lot then he would be against it, however because the structure will meet all of the setback and impervious surface requirements he supports granting the variance.

Mr. Ketterer and Ms. Hanser discuss square footage requirements for parcels.

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Discussion regarding the history of development in Rockwood Estates.

Mr. Ketterer states that he feels the Ordinance lot size minimums were enacted to protect water quality in just this type of situation. Ms. Hanser responds that the Ordinance allows for the variance procedure for these same situations.

Discussion with Ms. Hoffman regarding the 2008 Corporation Counsel decision regarding substandard lots.

Discussion regarding lot sizes for past, current, and future lots.

**Motion by Joy Hanser, seconded by Dennis Wittig, to approve the variance as requested because unnecessary hardship is present in that a liberal enforcement of the terms of the zoning ordinance would be unduly burdensome because the lot was legally sized and created in 1967 but a rewrite of the Ordinance in 1999 made it nonconforming, unique property features are present because of the size and shape of the property, and there will be no harm to the public interest because the proposed structure will meet all Ordinance setback, impervious surface, and mitigation requirements.**

**Roll call vote:**

<b>Joy Hanser -</b>	<b>In favor</b>
<b>Marty Ketterer -</b>	<b>Opposed</b>
<b>Dennis Wittig -</b>	<b>In favor</b>

**Motion carried. Variance granted with no conditions.**

**Motion by Joy Hanser, seconded by Dennis Wittig, to adjourn. All say aye, motion carried.**

The public hearing is adjourned at 11:07 AM.

*Minutes reflect the recorder's notations and are subject to approval by the appropriate board or committee.*